

Exhibit D

Kakish, Lara

From: Golan, Jeffrey <JGOLAN@barrack.com>
Sent: Wednesday, May 10, 2023 2:47 PM
To: Adams, John; Amass, Tyler H.; Cox, Trey; Lutz, Brian M.; Davis, Colin B.; McNally, Laura Hughes; Kakish, Lara
Cc: John Browne; Timothy Fleming; Hoffman, Robert; Carder, Chad; Danielle M. Weiss; Heo, Andrew J; Michael Mathai; Adam Wierzbowski; Brendan Walden
Subject: RE: 1/18 M&C RE: Energy Transfer Securities Litigation

[WARNING: External Email]

Dear John:

We are dismayed to learn that Defendants, apparently concerned with the possibility of an adverse ruling in Lead Plaintiffs' fully-briefed motion to compel, have belatedly resorted to attacking the scope of *Lead Plaintiffs'* responsive document search. Your request seems motivated not by a desire to obtain relevant text messages from Lead Plaintiffs' custodians, or even by a belief that such text messages exist, but in the hopes of obtaining favorable positioning with regard to Lead Plaintiffs' motion, which *is* motivated by our well-founded belief – one that Defendants no longer contest – that Defendants' custodians communicated via text message about matters at issue in this litigation.

Lead Plaintiffs produced documents responsive to Defendants' document requests, subject to our written responses and objections, from October 2021 to February 2022. At no point during that process did Defendants request that Lead Plaintiffs search for text messages or inquire into Lead Plaintiffs' data sources, even after we provided a detailed account of the data sources we were attempting to access for two custodians in the November 5, 2021 letter referenced in your email below. Defendants did not ask about text message communications at any depositions taken of Lead Plaintiffs, which took place in December 2021 and January 2022, during which representatives of the Lead Plaintiffs explained that they delegated investment decision-making authority to investment managers. And when the time came for Defendants to respond to Lead Plaintiffs' motion for class certification, Defendants made no arguments whatsoever against the Lead Plaintiffs' adequacy in Defendants' opposition brief or during the two hour hearing on July 8, 2022 on the class motion.

Even since the class motion argument and the Court's August 23, 2022 decision certifying a class, Defendants have not raised the issue of Lead Plaintiffs' text messages. This includes as we approached the prior fact discovery deadline of December 16, 2022; during the meet and confers held on January 18 and March 27, 2023; in any of the negotiations aimed at resolving Plaintiffs' motion to compel; or in Defendants' response to Plaintiffs' motion to compel. Instead, you waited to raise the issue until *after* we filed Lead Plaintiffs' reply in further support of the motion to compel. Defendants have further never pointed to a document suggesting that Lead Plaintiffs texted about any issues relevant to this case.

Given these circumstances, we decline the requests in your below email of May 9, 2023 that we "confirm by May 8 whether Plaintiffs have collected and reviewed text messages from each of Plaintiffs' identified email custodians" and supply other information regarding any such text messages.

Jeff

Jeffrey W. Golan
Barrack, Rodos & Bacine
3300 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103

From: Adams, John <JSAdams@gibsondunn.com>

Sent: Tuesday, May 9, 2023 1:25 PM

To: Michael Mathai <Michael.Mathai@blbglaw.com>; Adam Wierzbowski <Adam@blbglaw.com>; Brendan Walden <Brendan.Walden@blbglaw.com>; Amass, Tyler H. <TAmass@gibsondunn.com>; Cox, Trey <TCox@gibsondunn.com>; Lutz, Brian M. <BLutz@gibsondunn.com>; Davis, Colin B. <CDavis@gibsondunn.com>; McNally, Laura Hughes <laura.mcnally@morganlewis.com>; Kakish, Lara <LKakish@gibsondunn.com>

Cc: John Browne <JohnB@blbglaw.com>; Timothy Fleming <Timothy.Fleming@blbglaw.com>; Golan, Jeffrey <JGOLAN@barrack.com>; Hoffman, Robert <RHOFFMAN@barrack.com>; Carder, Chad <ccarder@barrack.com>; Danielle M. Weiss <dweiss@barrack.com>; Heo, Andrew J <aheo@barrack.com>

Subject: RE: 1/18 M&C RE: Energy Transfer Securities Litigation

Counsel:

Please confirm by May 8 whether Plaintiffs have collected and reviewed text messages from each of Plaintiffs' identified email custodians (see, e.g., Nov. 5, 2021 LTR from R. Hoffman; September 23, 2021 email from Plaintiffs' Lead Counsel). If not, please identify which individuals' text messages were collected, if any collection attempts were unsuccessful, and the search methodology used.

Best,

John Adams

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From: Michael Mathai <Michael.Mathai@blbglaw.com>

Sent: Thursday, May 4, 2023 8:12 AM

To: Adams, John <JSAdams@gibsondunn.com>; Adam Wierzbowski <Adam@blbglaw.com>; Brendan Walden <Brendan.Walden@blbglaw.com>; Amass, Tyler H. <TAmass@gibsondunn.com>; Cox, Trey <TCox@gibsondunn.com>; Lutz, Brian M. <BLutz@gibsondunn.com>; Davis, Colin B. <CDavis@gibsondunn.com>; McNally, Laura Hughes <laura.mcnally@morganlewis.com>

Cc: John Browne <JohnB@blbglaw.com>; Timothy Fleming <Timothy.Fleming@blbglaw.com>; Jeffrey Golan <JGOLAN@barrack.com>; Robert Hoffman (External) <rhoffman@barrack.com>; Chad Carder <ccarder@barrack.com>; Danielle M. Weiss <dweiss@barrack.com>; Aho Aho <aheo@barrack.com>

Subject: Re: 1/18 M&C RE: Energy Transfer Securities Litigation C926 5-30-23 00500-CV-111 Document 122-8 Filed 05/10/23 Page 3 of 3

[WARNING: External Email]

John,

We disagree with your assertions about our proposed text message search terms. You claim that there are “technical limitations associated with text message search and review that make the use of connectors and phrases more difficult,” but if the text messages in question are forensically collected and uploaded to a review platform, our understanding is that you should be able to apply typical text-searching processes, particularly since we’ve used both proximity connectors and phrases in searching text messages in other cases. The use of phrases should also not present any particular challenges. For example, you proposed “Mariner East” as a search term, so it is obviously possible to use such